S.B. CIVIL WRIT PETITION NO.2892/2007.

Vijay Walia
Vs.
State and anr.

Date of order : 27/4/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri M.M. Ranjan for the petitioner.

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This writ petition has been filed against the order dated 7/4/2007 whereby the security amount of the petitioner has been adjusted against the payment whereas the petitioner was claiming for award of escalation which was recommended by the Additional Chief Engineer. Action of the respondents is contrary to Clause-45 of the agreement. The respondents are now reversing the order of the Additional Chief Engineer and they are seeking to recover a sum of Rs.24,498/- on the ground that the said amount has been paid to the petitioner in excess. It was argued that in view of Clause 23 of the Agreement executed between the parties, the dispute being less than Rs.50,000/-, the petitioner cannot approach the Arbitrator for redressal of his

grievance with the department and the only remedy available with him was to approach this Court.

Having heard learned counsel for the parties, I find that if the dispute cannot be taken to Arbitrator, the petitioner with regard to complex nature of disputed facts arising out of contractual obligations could always approach the civil court. In my considered opinion, writ petition cannot be an appropriate remedy for deciding the dispute between the civil contractor and the department.

The writ petition is accordingly disposed of.

(MOHAMMAD RAFIQ), J.

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